NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 16, 2011

11:21 a.m.

REGULAR SESSION

SENATOR JOSEPH A. GRIFFO, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT GRIFFO: The Senate will come to order.

I ask all present to please rise and join with me as we recite the Pledge of Allegiance to our Flag.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

ACTING PRESIDENT GRIFFO: Today's invocation will be offered by the Reverend Peter G. Young, of the Mother Teresa Community here in Albany.

Father?

REVEREND YOUNG: Thank you, Senator.

Let us pray.

God, by Your love, You made a world where we have become neighbors to each other and we are enabled to love one another. Let us remember today those that are in Japan that are suffering with a traumatic kind of potential meltdown for nuclear problems. And may we pray, too, for peace in the Mideast.

May we again grant that You too may use the Senate to strive toward a way of life

in keeping with God's plan. We pray that You will bless our Senators generously who devote themselves to helping our New York State citizens.

Amen.

ACTING PRESIDENT GRIFFO: Thank you, Father.

The reading of the Journal.

THE SECRETARY: In Senate, Tuesday, March 15th, the Senate met pursuant to adjournment. The Journal of Monday, March 14th, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT GRIFFO: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: On page 18, Senator Little moves to discharge, from the Committee on Health, Assembly Bill Number 1635 and substitute it for the identical Senate Bill Number 1689, Third Reading Calendar 191.

ACTING PRESIDENT GRIFFO:

Substitution ordered.

THE SECRETARY: On page 18, Senator Espaillat moves to discharge, from the Committee on Housing, Construction and Community Development, Assembly Bill Number 570 and substitute it for the identical Senate Bill Number 3114, Third Reading Calendar 195.

ACTING PRESIDENT GRIFFO: Substitution so ordered.

THE SECRETARY: On page 19, Senator Fuschillo moves to discharge, from the Committee on Higher Education, Assembly Bill Number 5664 and substitute it for the identical Senate Bill Number 3536, Third Reading Calendar 201.

ACTING PRESIDENT GRIFFO: Substitution is so ordered.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Thank you,

Mr. President.

There will be an immediate meeting of the Finance Committee in Room 332 -- that's the Finance Committee immediately will meet in Room 332.

The Senate will stand at ease.

ACTING PRESIDENT GRIFFO: There will be an immediate meeting of the Senate Finance Committee in Room 332.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 11:25 a.m.)

(Whereupon, the Senate reconvened at 11:45 a.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Mr. President, can we return to motions and resolutions, please.

ACTING PRESIDENT GRIFFO: We will return to motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe there's a resolution at the desk by

Senator LaValle. Could we have it read in its entirety and call on Senator LaValle, please.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative resolution by Senator LaValle, congratulating the Rocky Point High School Varsity Cheerleading Team upon the occasion of capturing the National Championship in the Universal Cheerleaders Association's Medium Varsity Division.

"WHEREAS, Athletic competition enhances the moral and physical development of the young people of this state, preparing them for the future by instilling in them the value of teamwork, encouraging a standard of healthy living, imparting a desire for success, and developing a sense of fair play and competition; and

"WHEREAS, This Legislative Body is justly proud to congratulate the Rocky Point High School Varsity Cheerleading Team upon the occasion of capturing the National Championship in the Universal Cheerleaders Association's Medium Varsity Division in

Orlando, Florida, on February 12-13, 2011; and

"WHEREAS, The Rocky Point High School Varsity Cheerleading Team competed against the top 32 teams in the country. This is the first time a Long Island team has won the Universal Cheerleaders Association's national title; and

"WHEREAS, A week before the national competition, the Rocky Point Cheerleading Squad placed first at the Long Island Championship at Suffolk County Community College in Selden, New York. The team secured the highest recorded score, 144.5 out of a possible 150 points, in the history of the Long Island Cheerleading Coaches Association (LICCA). In addition, Rocky Point Cheerleading Coach Anna Spallina received a Lifetime Achievement Award from the LICCA as one of Long Island's most deserving coaches; and

"WHEREAS, Loyally and enthusiastically supported by family, fans, friends and the community at large, the Rocky Point Varsity Cheerleading Team have proven themselves to be an unbeatable combination of

athletic and academic talents, reflecting favorably on their community; and

"WHEREAS, The Rocky Point High School Varsity Cheerleading Team includes: Nicole Danisi, Rebecca Farley, Heather Haas, Angela Henriksen, Cori Icopelli, Elizabeth Johannesen, Ally Kaleita, Amanda Lang, Kaity Moran, Emily Cincotta, Heidi Lebens, Brianna Lent, Margie Nociforo, Brianna Norbury, Haley Sanchez, Stephanie Savage, Paige Thomsen, Sarah Vaden, Sarah Viola, Melissa Carniero, Naomi Bauer, Jenna Orlando, Megan Keane, Kim Oliver, Jaclyn Lang, and Danielle Ortolani; and Head Coach Anna Spallina was ably supported by Assistant Coaches Samantha Melella, Lenee Passiglia, and Donna Collier; and

"WHEREAS, It is the sense of this Legislative Body that when young people who represent their community with pride and determination while participating in competitive sports are brought to our attention, they should be celebrated and recognized by all citizens of the great State of New York; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to honor the Rocky Point High School Varsity Cheerleading Team upon the occasion of winning the National Championship in the Universal Cheerleaders Association's Medium Varsity Division; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the members of the Rocky Point High School Varsity Cheerleading Team, Coach Anna Spallina, and the aforementioned assistant coaches."

ACTING PRESIDENT GRIFFO: Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President.

Today we have the Rocky Point High School Varsity Cheerleaders with us to celebrate and commemorate their achievement. Senator Flanagan came over to me before, and he said, "National championship? Wow."

And to my colleagues, I say to win a national championship, to be the first team from Long Island to beat 32 other teams from

around our great nation, is indeed a great, great achievement.

Rocky Point is a community, a hamlet on the North Shore of Long Island. It is a wonderful community where people in that community of Rocky Point work together, play together, and do so in just a great way. There are many other districts surrounding Rocky Point where people say "How do we become a community like Rocky Point?"

These students who are with us today have achieved in the classroom and they have achieved athletically. It is a wonderful thing.

Many, many moons ago, my own daughter was a cheerleader at Earl Vandermeulen High School in Port Jefferson, and at that time cheerleading was not at the level that it is today. As many of you, I attend a lot of cheerleading events, and the activities that go on are just mind-boggling. And many times I have to cover my eyes because of the flips and things that are done.

So to the Rocky Point cheerleaders, today we are passing this resolution. You

will be part of the history of New York and you can look back in time and say that your achievements were recognized by the New York State Senate, and I believe it's already been done in the Assembly.

So congratulations from my colleagues, myself to your coach and all of you on the wonderful national achievement that you reached.

(Applause.)

ACTING PRESIDENT GRIFFO: The Senate welcomes and congratulates the Rocky Point High School Varsity Cheerleading Team. Thanks for being with us today, and congratulations.

("Thank you" from the gallery.)

(Laughter; applause.)

ACTING PRESIDENT GRIFFO: It sounds like a cheer.

All in favor of the resolution signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President -- we can clap again.

(Applause.)

SENATOR LIBOUS: Thank you, Mr. President.

There's a resolution at the desk, Number 879 by Senator Golden. Could we please have its title read, and I believe Senator Golden would like to be called on.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution 879, by Senator Golden, commending the Brooklyn Irish-American Parade Committee upon the occasion of its 36th Annual St. Patrick's Day Parade on March 20, 2011.

ACTING PRESIDENT GRIFFO: Senator Golden.

SENATOR GOLDEN: This obviously is a great time during the month of March that we celebrate St. Patrick's Day, and there are many parades, one being tomorrow, the 250th

anniversary of the parade with Mary Higgins Clark, who will be the grand marshal tomorrow, and she will march down that avenue, and proud, and pass the Archbishop, who will be on the steps of St. Patrick's Cathedral, as he is every year.

And this will be a great day for the Irish. Mary Higgins Clark, her parents arrived here the same as my parents, with a dollar in their pocket and a dream. And that dollar in their pocket and that dream came true for her and for my family as well. My brother was the grand marshal in the Mineola parade this past week, and my sister Eileen joined him, and she plays with Cherish the Ladies and he has the Golden School of Irish Dance. And I was gifted with having the -- being the Queens grand marshal last year.

We have, coming up on March 27th and this week coming up, two other parades in Brooklyn that will celebrate Irish heritage and bring out the culture of the great communities of the City of New York, and proudly they will march down the avenues in Brooklyn and Queens and the City of New York

and across this great state, celebrating their Irish heritage and their religion.

And I commend and ask anybody who would like to join that resolution as we give that out and bestow that honor on the people of Brooklyn.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Golden.

The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

And past practice will adhere. Those who do not want to be on the resolution, please notify the desk, as Senator Golden has offered all to be a cosponsor.

Senator Libous, we are still on motions and resolutions. Are there any further --

SENATOR LIBOUS: Yes, sir, we

are. And we have a couple of others. I believe there's one by Senator Seward that is at the desk. Could we ask that the title be read and we go for its immediate adoption.

ACTING PRESIDENT GRIFFO: Thank you, Senator Libous.

The Secretary will read.

THE SECRETARY: Legislative resolution by Senator Seward, honoring The Parisian Family upon the occasion of their designation as recipients of the 2011 Distinguished Partners in Education Award by St. Mary's School in Oneonta, New York, on March 19, 2011.

ACTING PRESIDENT GRIFFO: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Thank you,

Mr. President.

We have another resolution before us, Resolution 834, at the desk. May we please have the title read and call on Senator Little, please, and then move for its adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution 834, by Senator Skelos, memorializing Governor Andrew M. Cuomo to proclaim March 2011 as Women's History Month in the State of New York and commemorating the New York State Senate's "Women of Distinction" tribute.

ACTING PRESIDENT GRIFFO: Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

Each year when we celebrate women's history we celebrate the women in New York State's history who have made a significant contribution to our society and to our causes. And it goes without saying that many of those women's contributions went far beyond the

borders of New York State; they have become part of our lasting heritage. And they did so by fighting against stereotypes, prejudice and insurmountable obstacles.

Many of those women you know by name, certainly, and we have honored them before: Sojourner Truth, Harriet Tubman, Susan B. Anthony, Elizabeth Cady Stanton, Nellie Bly, the artist Grandma Moses, Barbara McClintock, and the "First Lady of the World," Eleanor Roosevelt.

New York State continues to be a place where women have had a major role. And as we approach September 11, 2011, we will mark the 10th anniversary of the unprecedented tragedy that befell our state and our country. And once again, we should remember the three women of distinction that we honored because of their service, their ultimate sacrifice in 2001: Moira Smith, a decorated New York Police Department officer; Captain Kathy Mazza, the first female commandant of the Port Authority Police Training Academy; and Yamel Merino, 2001 Emergency Medical Technician of the Year, all who gave their lives in that

tragedy in 2001.

We continue this tradition this year by inducting three new honorees for the year 2011. Two of these women, as many before them that we have honored, have been first in their field.

Linda Richards, who was from Potsdam, New York, and was the first trained nurse, will be honored. Her life span was 1841 to 1930.

Second, Susan Smith McKenney Steward, who was the first African-American female doctor in New York State and was the third in our country. Her life span, 1847 to 1918.

And the third, who happens to be from my district, Mary Wiltsie Fuller. Mary Wiltsie Fuller was born in 1862 and was the daughter of a Troy industrialist and an advocate for women. Through her sponsorship of the Girls Friendly Society of the Episcopal Church in Troy, she became aware of the need for respite and recreation for the working women who worked in the Troy shirt factories.

At that time, many people called

Troy "the City of Women" because there were so many women -- young immigrant women, young women, older women, single women -- working to support their families working in these shirt factories. And certainly vacations and recreation were way beyond their means.

Realizing this, Mary turned to her friends Spencer and Katrina Trask about helping to find a location for her retreat for women. The Trask family lived in Tuxedo Park, Saratoga, and Lake George. They had land on Lake George that they had bought in a tax sale, and they agreed to allow Mary to establish a retreat for women on their land by leasing it to her in 1903. Mary then turned to many others to help with the support of building this retreat. The following year, 1904, Katrina Trask sold the property to Mary for one dollar and a bouquet of flowers.

There were about 50 friends who helped Mary raise the money for the renovations and contributed food and supplies for this home on Lake George. The name chosen for the home was Wiawaka, which is an Indian name for "the Great Spirit of Women," and it

officially opened July 4, 1903. And for a little more than $3, a woman could spend a week on Lake George.

Mary lived and worked at Wiawaka until her death in Glens Falls in 1943. Wiawaka still exists. It is the oldest and longest continuously operated nonprofit retreat for women in America today. This past summer and the summer before that, it hosted female wounded warriors for a retreat on Lake George.

It is still available for a minimum donation or what you can afford to pay for women to go and spend a week on Lake George. And it is still the recipient of local philanthropy. Josie Beckos-Wood of the Charles Wood Foundation has donated funds to this Wiawaka so that they can keep up the buildings and they can continue this tradition which has gone on for well over a hundred years of helping women find a space, a beautiful location for a retreat, and a place to renew their souls.

I would ask you all to take a moment to look at the display in the Well

honoring all the women that we have honored in the past as well as these three women who we respectfully and gratefully honor this year.

Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Little.

The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President there's another resolution at the desk, 873. May we please have -- actually, could we read it in its entirety, please. And then if you would call on me afterwards.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution 873, by Senator Skelos, recognizing and celebrating the week of March 13-19, 2011,

as "Sunshine Week."

"WHEREAS, The pillars of democracy include government transparency, accessibility and accountability, resulting in an informed citizenry; and

"WHEREAS, Sunshine Week is a national initiative about the importance of open government and freedom of information; and

"WHEREAS, Sunshine Week seeks to enlighten and empower people to play an active role in their government at all levels; and

"WHEREAS, This Legislative Body understands and appreciates the value of access to information that it needs to make informed decisions, and the corresponding importance of access to government information by the citizens of this state; and

"WHEREAS, The free flow of information from the government to the people instills trust and confidence in our democracy and ensures that our government is accessible, accountable and open; and

"WHEREAS, We must continue to educate and empower the public regarding their

right to access government documents, information and meetings; and

"WHEREAS, This Legislative Body will hold joint budget conference committees in order to provide more openness and transparency to the budget process; and

"WHEREAS, Nationwide, during the week of March 13 through 19, countless citizens and others interested in open government will celebrate Sunshine Week; and

"WHEREAS, Sunshine Week is a nonpartisan initiative whose supporters are conservative, liberal and every group in between, and its participants include print, broadcast and online news media, civic groups, libraries, nonprofits, schools and others interested in the public's right to know; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to recognize and celebrate the week of March 13-19, 2011, as Sunshine Week."

ACTING PRESIDENT GRIFFO: Senator Libous on the resolution.

SENATOR LIBOUS: Thank you,

Mr. President. I'm proud to stand before the body today and speak on this resolution.

Actually, what our goal is here is to have Sunshine Year, not just Sunshine Week. We certainly want to do all we can to open government up and make it as transparent as possible and make it available to all of the people that everyone in this chamber represents.

I think, as mentioned in the resolution, Mr. President, what's particularly special is that at 12 o'clock, as we speak on this resolution, at 12 o'clock we are commencing a number of the budget conference committees, legislation that was passed into law by this body in 2007 to open up the budgeting process and making sure that the public understands what's going to be in the final budget bill or legislation. Media cameras are in every one of the rooms as the meetings are commencing, as we are being telecast on the Internet and certainly viewed and heard by many.

Sunshine Week -- or, as I'd like to say, every day is Sunshine Day in New York

State, as we have passed a number of different laws over the years to achieve that transparency and openness that is required from government and is expected and deserved to the people.

So again, this is not just a day, just not a week, and I know my colleagues on both sides of the aisle agree with me that our goals in this chamber, both Republicans and Democrats, is to open things up in government and have the sun shine in every day so that what we do is extremely transparent.

ACTING PRESIDENT GRIFFO: Thank you, Senator Libous.

Senator Valesky on the resolution.

SENATOR VALESKY: Thank you, Mr. President.

I want to join Senator Libous in saluting Sunshine Week. And certainly Sunshine Week should be expanded to all 52 weeks of the year.

I want to, in addition to being very pleased this year that the budget process is actually in compliance with the Budget Reform Law of 2007 -- for the first time in a

couple of years -- which certainly is in the spirit of Sunshine Week and the spirit of openness and transparency. I would also suggest, though, the legislative activity that we've taken this week in many ways is in the spirit of Sunshine Week.

On Monday, two days ago, we had an open and honest discussion about redistricting reform for the first time ever in this State Senate, had an opportunity to have that discussion.

Yesterday, in the one-house budget that we passed -- I think it's very, very important to call this to the attention of the members of the Senate, because this is also in the spirit of Sunshine Week. There is Article 7 legislation that was included in yesterday's budget that we approved that does the following:

The creation of a Legislative Budget Office, whose primary responsibility is to provide individual members and legislative committees on a nonpartisan basis with information related to the budget process. That's sunshine in the budget process;

An independent executive director to helped head up that Legislative Budget Office, appointed for a six-year term. That's sunshine;

That the Executive and Legislature adopt budgets that are balanced in accordance with generally accepted accounting principles. I would submit that that's in the interest and the spirit of the sunshine and a more transparent and open legislature;

And that the Division of the Budget adopt a five-year financial plan in accordance with GAAP.

We didn't have an opportunity to discuss that yesterday during the debate on the one-house Senate budget, but I think it's important for the record to reflect that the budget that the Senate approved yesterday advances budget reform from four years ago in the spirit of openness and transparency.

And I want the record to reflect that as we acknowledge Sunshine Week, and I look forward to all of our colleagues supporting the resolution.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Valesky.

The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, on behalf of Senator Bonacic, on page 9 I offer the following amendments to Calendar Number 72, Senate Print Number 2769A, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT GRIFFO: The amendments are received, and the bill retain its place on the Third Reading Calendar.

Senator Libous.

SENATOR LIBOUS: Mr. President, seeing at this time all the members of the Senate are taking place in the open process of conference committees, the Senate will stand

at ease until those committees commence, and we will all be expected to be back here at a time that will be announced.

But we are at ease, we are not adjourning, and we will all be expected to be back here after the committees are over.

ACTING PRESIDENT GRIFFO: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 12:10 p.m.)

(Whereupon, the Senate reconvened at 3:57 p.m.)

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: Mr. President, I believe there's a report of the Finance Committee at the desk.

ACTING PRESIDENT FLANAGAN: The Secretary will read.

THE SECRETARY: Senator DeFrancisco, from the Committee on Finance, reports the following bill direct to third reading:

Senate Print 2802, Senate Budget Bill, an act making appropriations for the

legal requirements of the state debt service.

ACTING PRESIDENT FLANAGAN: So ordered.

Senator Breslin, why do you rise?

SENATOR BRESLIN: Thank you, Mr. President. Point of order, please.

According to the Senate rules, under Rule 5, subsection 6(C), a bill must, when it goes to Finance, in order to get to the third reading, must go through Rules. If it doesn't go through Rules, our rules signify that it can be done by unanimous consent.

This particular bill did not go through Rules. And we have been more than willing to allow unanimous consent, but that was denied. And we feel that this bill is not properly before the house.

ACTING PRESIDENT FLANAGAN: Senator Breslin, on your point of order, I would reference Rule 6, Section 6, which requires that all budget bills shall be given a number and shall be referred to the Finance Committee.

And it is the precedent in this body that the Finance Committee reports budget

bills directly to third reading for consideration on the floor.

While you're citing a separate rule, the ruling that I'm making is based on Rule 6, Section 6. And I would respectfully tell you that your point of order is not well-taken.

SENATOR BRESLIN: Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Libous.

SENATOR LIBOUS: Can we take up the supplemental noncontroversial calendar, please.

ACTING PRESIDENT FLANAGAN: The Secretary will read the substitution.

THE SECRETARY: Senator DeFrancisco moves to discharge, from the Committee on Finance, Assembly Bill 4002 and substitute it for the identical Senate Bill 2802, Third Reading Calendar Number 230.

ACTING PRESIDENT FLANAGAN: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

230, Assembly Print Number 4002, Assembly Budget Bill, an act making appropriations for the legal requirements of the state debt service.

ACTING PRESIDENT FLANAGAN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT FLANAGAN: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, is there any further business at the desk?

ACTING PRESIDENT FLANAGAN: There is no business at the desk, Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

There being no further business at the desk, I move that the Senate adjourn until Monday, March 21st, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT FLANAGAN: On motion, the Senate stands adjourned until Monday, March 21st, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 4:04 p.m., the Senate adjourned.)